

REMARKS/ARGUMENTS

The non-final Office Action of May 1, 2007 has been carefully reviewed and these remarks are responsive thereto. Applicant notes that the undersigned is new counsel of record pursuant to the Power of Attorney filed August 30, 2007. Claims 1, 4, 5, 7, 9-11, 13, and 15-17 have been amended, claims 3, 6, 12, 14, and 18 have been canceled without prejudice or disclaimer, and new claims 19-25 have been added. No new matter has been added. Claims 1, 2, 4, 5, 7-11, 13, 15-17, and 19-25 thus remain pending in this application. Reconsideration and allowance of the instant application are respectfully requested.

Rejections Under 35 U.S.C. § 112

Claims 1-18 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement with respect to the recitation, “the second threshold is less than the first threshold.” Specifically, the Office Action refers to page 7, lines 9-16 of the instant specification, and then states the conclusion reproduced below.

If programs must have a threshold at least equal to the first threshold (108), then it is impossible for any program to have a threshold equal to or lower than the second (109), since the first threshold (108) is greater than the second threshold (109).

Applicant respectfully submits that the Examiner’s conclusion is flawed. In this example, the specification clearly states that a program must have a value greater than or equal to the upper threshold in order to be added to the programs list. See page 7, line 10 (Emphasis added). Similarly, in this example, a program must have a value below the lower threshold in order to be removed from the programs list. See page 7, line 14 (Emphasis added). Therefore, the Examiner’s premise that a program “must have a threshold at least equal to the first threshold” and “equal to or lower than the second threshold,” is incorrect. As illustrated in FIGS. 1 and 2, and described in detail at page 6, line 22 to page 7, line 16 of the instant specification, a program may have a value below (or equal to) the second threshold (e.g., 103, 203), between the first and second thresholds (e.g., 101, 206), or above (or equal to) the second threshold (102, 201). Applicant respectfully requests reconsideration and withdrawal of this rejection.

Rejections Under 35 U.S.C. § 103

Claims 1-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,721,953 (Bates), in view of U.S. Patent No. 6,614,987 (Ismail). Applicant respectfully traverses these rejections for at least the following reasons.

Amended claim 1 recites, in part, “receiving an indication of a level of user satisfaction with the displayed first set of broadcast programs,” and “updating at least one of the first threshold and the second threshold automatically based on the received indication of the level of user satisfaction with the displayed first set of broadcast programs.” Support for these features can be found, for example, at page 11, lines 4-12 of the specification as originally filed. In contrast, neither Bates nor Ismail teaches or suggests updating a threshold value based on an indication of user satisfaction with the displayed set of broadcast programs. For example, Bates describes that thresholds may be set at different levels and that a specific program may be identified as a favorite program after a certain number of viewings. Col. 8, lines 1-5. However, in Bates, the user only ever indicates satisfaction with a particular program (i.e., by viewing the program); the user never provides an indication of satisfaction with the displayed favorites list. Thus, while a user in Bates might manually set the threshold values for the favorites list, these values would never be “updated ... automatically based on the received indication of the level of user satisfaction [with the displayed set of broadcast programs],” as recited in claim 1.

Ismail describes setting a time threshold for adding a program to a preference database, and a degradation process for removing saved programs from storage after a certain amount of time. Col. 11, lines 13-20; col. 12, lines 18-34. However, like Bates, Ismail’s updates are based on the watched statistics for individual programs, and not an indication of satisfaction “with the displayed first set of broadcast programs,” as recited in claim 1. Therefore, neither Bates nor Ismail, alone or in combination, teaches or suggests every feature of amended claim 1. As such, claim 1 is not obvious in view of the cited art.

Independent claims 7 and 13 have also been amended to recite, “receiv[ing] an indication of a level of user satisfaction with the displayed first set of broadcast programs,” and update[ing] at least one of the first threshold and the second threshold automatically based on the received indication of the level of user satisfaction with the displayed first set of broadcast programs.”

Therefore, for similar reasons to those discussed above regarding claim 1, amended claims 7 and 13 are not obvious in view of the cited art.

Dependent claims 2, 4, 5, 8-11, and 15-17 are not obvious in view of the cited references for at least the same reasons as their respective base claims, as well as based on the additional features recited therein. For example, amended claims 4, 10, and 16 recites, "wherein receiving the indication of the level of user satisfaction comprises determining that the viewer returned to a complete schedule of programs more than a predetermined number of times." Neither Bates nor Ismail discloses counting the number of times that the viewer returns to the complete schedule of programs. Nor does either cited reference even contemplate using this count to determine user satisfaction with the displayed set of programs (e.g., favorites list). However, as explained in detail in the instant specification, e.g., at page 11, lines 16-18, when a viewer returns frequently to the complete program list, this may indicate user dissatisfaction with the preferred list. Accordingly, since neither Bates nor Ismail teaches or suggests receiving an indication of user satisfaction by "determining that the viewer returned to a complete schedule of programs more than a predetermined number of times," amended claims 4, 10, and 16 are not obvious in view of the cited references.

In rejecting claims 5, 11, and 17, the Office Action alleges on page 5 that Bates discloses setting the first threshold to be a percentage of a period of time that a channel was viewed. In support of the rejection, the Office Action states, "if the lowest entry is to be removed, anything viewed less than 100 percent of the second to lowest entry would be removed." Applicant disagrees with this characterization of Bates as allegedly setting a threshold as a percentage of time that a channel was viewed. Although any fixed value can be expressed as 100 percent of itself, this does not mean that Bates teaches setting threshold values as percentages. Indeed, the word percentage is found nowhere in either the Bates or Ismail reference, nor is any equivalent concept. Notwithstanding this improper rejection, Applicant has amended to clarify claims 5, 11, and 17 to recite "wherein the first threshold and the second threshold are calculated as different percentages of a time that a channel was viewed." Thus, for similar reasons, neither Bates nor Ismail discloses calculating the different thresholds as different percentages of a channel viewing time. Accordingly, amended claims 5, 11, and 17 are not obvious in view of the cited references.

New Claims

Applicant has added new claims 19-25. No new matter has been added. While Applicant notes that new claims 19-25 have not been rejected, Applicant submits the following remarks in the interest of expediting prosecution.

Claims 19-20 and 22-23 recite raising or lower a threshold value based on a determination that the number of the broadcast programs in the first set exceeds or is lower than a program number threshold. Neither Bates nor Ismail teaches or suggests automatically changing the threshold value(s) based on the number of the broadcast programs in the first set. Thus, claims 19-20 and 22-23 are allowable for this additional reason.

Claims 21, 24, and 25, each recite “wherein the first threshold and the second threshold are calculated as different percentages of a time corresponding to a maximum time that any channel was viewed.” These claims are believed allowable based on their respective dependence from base claims 1, 7, and 13, as well as for similar reasons to those discussed above regarding claims 5, 11 and 17.

CONCLUSION

Based on the foregoing, Applicant respectfully submits that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicant’s undersigned representative at the below-listed number.

Respectfully submitted,
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Dated this 31st day of October, 2007

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